Department of State

TELEGRAM

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ACTION EA-14

INFO OCT-01 UPW-01 CIAE-00 DODE-00 PM-06 H-02 INR-06 L-03

NSAE-00 NSC-10 P-03 RSC-01 PRS-01 SS-14 USIA-12 AID-20

IO-11 RSR-01 /106 W

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R 080800Z OCT 71
FM AMEMBASSY SAIGON
TO SECSTATE WASHDC 0891
INFO AMEMBASSY BANGKOK
CINCPAC
AMCONSUL DANANG
USDEL FRANCE
AMEMBASSY PHNOM PENH
AMEMBASSY VIENTIANE

DEPARTMENT OF STATE A/CDC MR
REVIEWED BY Joan Zuber DATE 1/24/82
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SAIGON 16132 10/8/71

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CINCPAC FOR POLAD

SUBJECT: COURT COMPLAIN ON PRESIDENTIAL ELECTION

REF: A. SAIGON 16004; B. SAIGON A-133

1. SUMMARY: THE COMPLAINT FIELD WITH THE SUPREME COURT OCT 6 (REF A) ASSERTS THAT THE ELECTION LAW DID NOT CONTEMPLATE AN UNCONTESTED ELECTION, AND THE FACT THERE WAS ONLY ONE SLATE GAVE RISE TO A NUMBER OF IRREGULARITIES IN THE APPLICATION OF THE LAW. THE COMPLAINT REQUESTS THE SUPREME COURT TO ANNUL THE ELECTION. END SUMMARY

2. AN ASSOCIATE OF VICE PRESIDENT KY HAS GIVEN US A COPY OF THE COMPLAINT FIELD WITH THE SUPREME COURT OCTOBER 6 CONCERNING THE PRESIDENTIAL ELECTION. TRINH QUOC KHANH AND THE OTHER PLAINTIFFS (LISTED REFTEL) FILED THE COMPLAINT AS VOTERS, AND REQUESTED THE SUPREME COURT TO ANNUL THE ELECTION UNDER ARTICLE 46 OF THE ELECTION LAW, WHICH STATE "THE SUPREME COURT SHALL PROCLAIM THE ANNULMENT OF THE ENTIRE ELECTION IF IT FINDS THAT CONFIRMEDIRREGULARITIES BRING THE HONESTY OF THE VOTING INTO

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QUESTION AND CHANGE THE GENERAL RESULT OF THE ELECTION."

3. AS SUCH IRREGULARITIES THE COMPLAINT LISTED THE FOLLOWING ITEMS:

A. THE ELECTION LAW DOES NOT CONTEMPLATE ANY ELECTION WITH ONLY ONE SLATE AS SHOWN BY THE USE OF PLURALS IN VARIOUS PLACES IN THE LAW, EXPECIALLY IN ARTICLE 19/3 (WHICH STATES "IF THERE ARE ONLY TWO SLATES OF CANDIDATES, THE CHIEF JUSTICE OF THE SUPREME COURT WILL DESIGNATE A JUSTICE OF THE SUPREME COURT TO SERVE AS CHAIRMAN OF THE ELECTION CAMPAIGN COMMITTEE" THE LAW COULD NOT BE APPLIED IN AN ELECTION WITH ONLY ONE SLATE, AS WAS RECOGNIZED BY THE SUPREME COURT ITSELF WHEN IF REFUSED TO DESIGNATE A JUSTICE IN ACCORDANCE WITH THE ABOVE ARTICLE. THUS NEITHER THE CENTRAL ELECTION CAMPAIGN COMMITTEE NOR THE LOCAL ELECTION CAMPAIGN COMMITTEES (ARITLCE 18/2) WAS ESTABLISHED. FURTHERMORE, THE LOCAL ELECTION COUNCILS CALLED FOR IN ARTICLE 9 WERE NOT ESTABLISHED BECUASE SOME ELEMENTS WERE NOT AVAILABEL". (WE DO NOT UNDERSTAND EXACTLY WHY THESE COUNCILS WERE NOT ESTABLISHED; PERHAPS LOCAL JUDGES WOULD NOT PARTICIPATE.)

B. THERE WERE IRREGULARITIES IN THE ORANIZATION OF THE VOTING, SINCE IT WAS DONE ENTIRELY BY THE MINISTRY OF THE INTERIOR WHICH WAS UNDER THE AUTHORITY OF THE HEAD OF THE ONE SLATE THAT WAS RUNNING. THE AUTHORITIES OF PRESIDENT THIEU CHOSE THE CHAIRMEN OF POLLING STATION, AND ANY OBSERVERS WERE THOSE OF PRESIDENT THIEU, THEREFORE AUTOMATICALLY NO OFFICLAL RECORD WAS MADE OF ANY VIALATIONS BECUASE THERE WAS NO CHECK BY ANYONE.

C. ARTICLE 27 OF THE LAW MENTIONS DISTRIBUTION OF THE BALLOTS, SAYS THEIR SEQUENCE MUST BE ALTERNATED, AND STATES THE VOTER CHOOSES THE BALLOT OF THE SLATE OF HIS CHOICE. WITH ONLY ONE SLATE NONE OF THESE PROCREURES COULD BE CARRIED OUT, AND THE VOTER WAS DEPRIVED OF HIS RIGHT TO MAKE A CHOICE. ARTICLE 19/3 (QUOTED ABOVE) BY USING THE WORD / "ONLY" CHEARLY INDICATES THE MINIMUM ACCEPTABLE NUMBER OF SLATES IN TWO.

D. FOR THE POLLING OCTOBER 3 THERE WAS ONLY ONE BALLOT, FOR THE THEIU-HUONG SLATE, IN SPITE OF THE FACT THAT AT THE SECOND POLLING OF CANDIDATES THE KY-LE SLATE WAS ALSO LISTED AND THERE WAS NO SUBSEQUENT SUPREME COURT DECISION TO DROP IT FROM THE LIST OF SLATES.

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THUS FROM THE LEGAL POINT OF VIEW THERE WERE TWO SLATES, BUT THE MINISTRY OF INTERIOR PRINTED BALLOTS FOR ONLY ONE SLATE AND DEPRIVED THE VOTER OF HIS RIGHT TO MAKE A CHOICE.
E. ARTICLE 24/2 STATES THE SLATE RECEIVING THE LARGEST NUMBER OF VOTES WILL BE DECLARED ELECTED. THE TERM "LARGEST" IMPLIES THERE MUST BE AT LEAST ONE OTHER SLATE WITH FEWER VOTES.

4. THE COMPLAINT CONCLUDED THAT THE POLLING OF OCTOBER 3 TOOK PLACE ILLEGALLY BECUASE IT WAS BASED ON A LAW WHICH COULD NOT BE APPLIED TO AN ELECTION WITH ONE SLATE, AND CONSEQUENTLY ARITCLE 46 SHOULD BE APPLIED.

5. EXECUTIVE DECREE OF JULY 6 ON ELECTION SCHEDULE (REF B) GAVE OCT 5 AS LAST DAY COMPLAINTS COULD BE FILED WITH SUPREME COURT, ANDOCT 25 AS DEADLINE FOR FINAL VOTE ON VALIDITY AND ELECTION RETURNS. HOWEVER, AN OCT 7 VIETNAM PRESS ITEM SOURCED TO THE SECRETARY GENERAL OF THE SUPREME COURT STATEDTHE ABOVE COMPLAINT HAD BEEN ACCEPTED AND TRANSMITTED TO THE DEMOCRACY (THIEU-HOUNG) SLATE SO IT COULD PREPARE ITS VIEWS. ITEM ALSO GAVE DEADLINE FOR FINAL VOTE AS OCT 26 WHICH LOGICALLY FOLLOWS SINCE THAT DEADLINE IS 20 DAYS AFTER END OF PERIOD FOR FILLING COMPLAINTS. JUXTAPOSITION OF ROUTINE VIETNAM PRESS ITEM OF OCT 5 STATING THAT DAY WAS DEADLINE FOR COMPLAINTS COUPLES WITH COURT ACCEPTANCE OF CASE THE FOLLOWING DAY GAVE RISE TO SOME WIRE SERVICEREPORTS THAT SOME SORT OF CONTROVERSY WAS INVOLVED. DIFFERENCE IN DATES INVOLVES MINOR QUESTION OF INTERPRETATION OF VIETNAMESE TERMS USED IN THE LAW.

6. TRANSLATION OF COMPLAINT WILL BE POUCHED.
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